

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**FILED**

U.S. DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
ST. LOUIS

MISSOURI COALITION FOR  
THE ENVIRONMENT,  
a non-profit corporation

Plaintiff,

v.

NATIONAL PARK SERVICE;  
UNITED STATES DEPARTMENT  
OF THE INTERIOR,

Defendants.

Civil No:

COMPLAINT

**4 05CV00700 FRB**

**INTRODUCTION**

1. On April 9, 2004, Plaintiff Missouri Coalition for the Environment ("Coalition") submitted a routine request for records to the National Park Service pursuant to the Freedom of Information Act ("FOIA"). It is now nearly thirteen months since the FOIA request was submitted and yet the Coalition has received nothing more than several letters from the Park Service promising compliance. FOIA requires that agencies produce responsive records within 20 business days of a request or "promptly" thereafter.

2. This is an action under the FOIA, 5 U.S.C. § 552 *et seq.*, for injunctive and other appropriate relief to bring about the immediate processing and release of agency records requested by the Coalition from the National Park Service, an agency of the federal government situated within the U.S. Department of the Interior.

## **JURISDICTION AND VENUE**

3. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 5 U.S.C. § 702 and 28 U.S.C. § 1331(a).

4. Venue is proper in this Court under 5 U.S.C. § 552(a)(4)(B).

## **PARTIES**

5. Plaintiff Missouri Coalition for the Environment is a non-profit corporation with its principal office at 6267 Delmar Boulevard, Suite 2-E, University City, Missouri 63130.

6. The Coalition is a membership organization with the purposes of preserving and enhancing the scenic, scientific, educational, historical, wilderness, wildlife, open space, outdoor recreation and public health values of the physical environment, and coordinating, encouraging, and assisting efforts of others to maintain and enhance environmental quality.

7. These above mentioned interests of the Coalition, as well as the interests of its members, have been and will continue to be adversely affected by the National Park Service's failure to comply with FOIA and shield important information concerning management of the Ozark National Scenic Riverways from public scrutiny.

8. Defendant National Park Service is an agency within the U.S. Department of the Interior that has management responsibility over the Ozark National Scenic Riverways in Missouri.

9. The United States Department of the Interior is a cabinet-level department of the United States government within which is housed the National Park Service.

### **STATEMENT OF FACTS**

10. The Coalition submitted a FOIA request to the National Park Service on April 9, 2004. Exh. 1. Specifically, the FOIA was transmitted to the Ozark National Scenic Riverways' ("ONSR") headquarters in Van Buren, Missouri.

11. The ONSR is a unit of the National Park System that consists of approximately 80,000 acres located along 134 miles of the Current and Jacks Fork rivers in Missouri's Ozark region. The ONSR is administered by the National Park Service.

12. The Coalition submitted its FOIA request to obtain information about lax management practices by the Park Service at ONSR, including at least two noticeable violations of scenic easements held by the Park Service, indications that federal lands may have been traded away without public involvement or environmental review, and the apparent construction of new infrastructure without environmental review. The Coalition sought to better understand the facts about these issues so it could bring about more informed public oversight and improved management of this important Missouri landscape.

13. By letter dated June 30, 2004, the Coalition was initially told by the Park Service that records would be made available by the end of July 2004, which would have already been several months past the legal deadline for compliance. No records were forthcoming by the end of July.

14. By letter dated August 11, 2004, the Coalition was told by the Park Service that responsive records would be made available by September 15, 2004. No records were forthcoming by September 15th.

15. In early October 2004, the regional office of the Park Service in Omaha, Nebraska, stated in a telephone conversation with Coalition staff that the records would be provided no later than the end of that month. No records were forthcoming by the end of October.

16. In mid November 2004, the Coalition was told by the Omaha office that it was uncertain when the responsive records would be provided.

17. On December 3, 2004, the Coalition filed an administrative appeal with the FOIA Appeals Officer at the U.S. Department of the Interior in Washington, D.C.

18. On January 21, 2005, the Department of the Interior responded to the Coalition's appeal, acknowledging that it had failed to meet the 20 business day deadline for deciding the appeal and stating that "you may seek judicial review under 5 U.S.C. § 552(a)(4)(B)." The letter went on to indicate that the Department of the Interior would "make every effort" to reach a decision on the appeal within 20 business days of the date on the letter.

19. On March 23, 2005, the Park Service sent a letter to the Coalition indicating that the responsive records were undergoing "final legal review." Despite the fact that the Coalition already had an administrative appeal pending, the letter indicated that the Coalition could "appeal this matter" to the Department of the Interior.

20. On April 1, 2005, Coalition staff spoke with Park Service staff in Omaha about the status of the FOIA request. The Park Service staff indicated that the records would be provided within two weeks of April 1st and that if they would not be so provided that Coalition staff would be notified by telephone.

21. On April 8, 2005, the Department of the Interior sent a letter to the Coalition indicating that the Omaha office of the Park Service would be responding to the FOIA request "shortly."

22. The Coalition has not heard from the Park Service or Department of the Interior subsequent to the April 8th letter.

**CLAIM FOR RELIEF**  
**(Violation of FOIA)**

23. Plaintiff repeats and realleges paragraphs 1 through 22 above.

24. The FOIA provides that agencies shall respond to FOIA requests within twenty business days, 5 U.S.C. § 552(a)(6)(A)(i), and shall thereafter produce requested records "promptly." *Id.* § 552(a)(6)(C)(i).

25. The FOIA provides that agencies shall make a determination on administrative appeals within 20 business days after their submission. 5 U.S.C. § 552(a)(6)(A)(ii).

26. The FOIA provides for judicial review of an agency's failure to provide records in response to a request. 5 U.S.C. § 552(a)(4)(B).

27. The National Park Service's failure to produce the records responsive to the Coalition's FOIA request violates the FOIA.

### **REQUESTED RELIEF**

WHEREFORE, Plaintiff prays that this Court:

- 1) order defendants immediately and expeditiously to process the Coalition's FOIA request and to produce the requested records;
- 2) award the Coalition its costs and reasonable attorneys fees incurred in this action; and
- 3) grant such other relief as the Court may deem just and proper.

Respectfully submitted,

By:



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